

Exhibit A

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x
UNITED STATES PHILIPS
CORPORATION,

Plaintiff,

v.

MANINDER SETHI; JITENDER
SETHI; LOVELEEN SETHI; WINGS
MANUFACTURING CORPORATION;
JAZZMAN SPORTSWEAR
CORPORATION; ESHMAN
HOLDINGS LIMITED; LEENA
DENIM LIMITED f/k/a LEENA
ENTERPRISES; and John Does 1 – 10,

Defendants.
-----x

INDEX NO. 601288/05

MOTION FOR CONFIRMATION OF
ORDER OF ATTACHMENT

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the papers listed in the Motion below, respondent United States Philips Corporation, by and through its attorneys of record, will move this Court, in front of the Honorable Justice James A. Yates, on May 15, 2005 at 10am or as soon thereafter as counsel may be heard, at the Supreme Court of the State of New York, County of New York, for an Order pursuant to Civil Practice Law and Rules 6211(b) confirming the April 15, 2005 Order of Attachment.

Pursuant to Civil Practice Law and Rules 2214(b), answering papers, if any, shall be served at least seven days before the scheduled hearing.

MOTION

Based on the April 13, 2005 Affidavit of Maura Miller, as well as the exhibits thereto, and the *Ex Parte* Application for an Order of Attachment and Memorandum of Law in Support Thereof, all of which are attached to the April 28, 2005 Affidavit of Maura Miller as Exhibit 1 and incorporated by reference, United States Philips Corporation ("Philips") hereby moves pursuant to Civil Practice Law and Rules 6211(b) and the Court's April 15, 2005 Order of Attachment, for an order confirming the Order of Attachment entered April 15, 2005 against the assets of defendants Maninder Sethi, Jitender Sethi, Wings Manufacturing Corporation, Jazzman Sportswear Corporation and Eshman Holdings, Ltd. A copy of the Court's April 15, 2005 Order is attached to the April 28, 2005 Affidavit of Maura Miller as Exhibit 2.

Dated: New York, New York
April 28, 2005



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Attorneys for Plaintiff
United States Philips Corporation

In IAS Part ____ of the Supreme Court of the
State of New York held in and for the
County of New York, at the County
Courthouse, New York, New York, on
the ____ day of May, 2005.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

PRESENT:

Hon. James A. Yates, Justice

-----X
**UNITED STATES PHILIPS
CORPORATION,**

Plaintiff,

v.

**MANINDER SETHI; JITENDER
SETHI; LOVELEEN SETHI; WINGS
MANUFACTURING CORPORATION;
JAZZMAN SPORTSWEAR
CORPORATION; ESHMAN
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DENIM LIMITED f/k/a LEENA
ENTERPRISES; and John Does 1 – 10,**

Defendants.
-----X

INDEX NO. 601288/05

**ORDER CONFIRMING APRIL 15,
2005 ORDER OF ATTACHMENT**

Plaintiffs having filed a Motion to Confirm the April 15, 2005 Order of Attachment against the property of defendants Maninder Sethi, Jitender Sethi, Wings Manufacturing Corporation, Jazzman Sportswear Corporation and Eshman Holdings, Ltd. in an action in the Supreme Court of New York, County of New York, pursuant to Article 62 of the New York Civil Practice Law and Rules; and

the Court having read the summons and complaint herein and the Motion to Confirm, along with the April 28, 2005 Affidavit of Maura Miller, and the exhibits annexed thereto, submitted in support of the Motion, wherein the criteria for attachment set forth in Article 62 of the New York Civil Practice Law and Rules have been satisfied in that:

**(1) a cause of action for a money judgment exists in favor
of plaintiff against defendants Maninder Sethi, Jitender**

Sethi, Wings Manufacturing Corporation, Jazzman Sportswear Corporation, and Eshman Holdings, Ltd. for the sum stated in the complaint, namely \$972,422.35, together with interest as provided in Article 50 of the Civil Practice Law and Rules, costs, and the Sheriff's fees and expenses;

(2) the amount demanded from defendants exceeds all counterclaims known to plaintiff;

(3) it is probable that plaintiff will succeed on the merits; and

(iv) defendants Maninder Sethi, Jitender Sethi, Wings Manufacturing Corporation, Jazzman Sportswear Corporation, and Eshman Holdings, Ltd., with intent to defraud creditors or frustrate the enforcement of a judgment that might be rendered in plaintiff's favor, have assigned, disposed of, encumbered or secreted property, or removed it from the state or are about to do any of these acts;

NOW, on motion of Sullivan & Cromwell, LLP, attorneys for plaintiff, it
is

ORDERED, that the April 15, 2005 Order of Attachment is
CONFIRMED.

J.S.C.

Attorneys for Plaintiff
United States Philips Corporation

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
UNITED STATES PHILIPS
CORPORATION,

Plaintiff,

v.

MANINDER SETHI; JITENDER
SETHI; LOVELEEN SETHI; WINGS
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JAZZMAN SPORTSWEAR
CORPORATION; ESHMAN
HOLDINGS LIMITED; LEENA
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Defendants.
-----X

INDEX NO. 601288/05

AFFIDAVIT OF MAURA MILLER IN
SUPPORT OF UNITED STATES
PHILIPS CORPORATION'S MOTION
TO CONFIRM ORDER OF
ATTACHMENT

I, MAURA MILLER, declare as follows:

1. I am associated with the law firm of Sullivan & Cromwell LLP, counsel to Plaintiff United States Philips Corporation ("Philips") in the above-captioned action, and am a member of the Bar of the State of New York. I have personal knowledge of the facts set forth in this affidavit.
2. Attached hereto as Exhibit 1 is a true and correct copy of Philips' *Ex Parte* Application for Order of Attachment, including the April 13, 2005 Affidavit of Maura Miller and exhibits thereto.
3. Attached hereto as Exhibit 2 is a true and correct copy of this Court's April 15, 2005 Order of Attachment.

WHEREFORE, pursuant to CPLR Section 6211(b), the undersigned respectfully requests that this Court confirm the April 15, 2005 Order of Attachment.

Pursuant to CPLR § 2106, I subscribe and affirm, under penalty of perjury, that the foregoing is true and correct.

Dated: April 28, 2005
New York, New York


Maura Miller

18



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
UNITED STATES PHILIPS
CORPORATION,

Plaintiff,

v.

MANINDER SETHI; JITENDER
SETHI; LOVELEEN SETHI; WINGS
MANUFACTURING CORPORATION;
JAZZMAN SPORTSWEAR
CORPORATION; ESHMAN
HOLDINGS LIMITED; LEENA
DENIM LIMITED f/k/a LEENA
ENTERPRISES; and John Does 1 – 10,

Defendants.
-----X

INDEX NO. 601288/05

EX PARTE APPLICATION FOR
ORDER OF ATTACHMENT AND
MEMORANDUM OF LAW IN
SUPPORT THEREOF

Based on the Affidavit of Maura Miller, signed on April 13, 2005, as well
as the exhibits thereto, and the Memorandum of Law below, United States Philips
Corporation ("Philips") hereby submits this application for an *ex parte* Order of
Attachment pursuant to Civil Practice Law and Rules 6201(3) and 6211 against the assets
of defendants Maninder Sethi, Jitender Sethi, Wings Manufacturing Corporation,
Jazzman Sportswear Corporation and Eshman Holdings, Ltd.

MEMORANDUM OF LAW

United States Philips Corporation ("Philips") submits this Memorandum
of Law in support of its *ex parte* application for a Writ of Attachment.

INTRODUCTION

Philips' attempts to collect on its one and a half year old judgment against Wings Digital Corporation ("Wings Digital") have been thwarted by a sophisticated scheme of asset transfers, found found by this Court to be "fraudulent," (see p. 3 *infra*.) orchestrated by Wings Digital's principal and his family. At a hearing in a related proceeding, this Court already found that the Sethi family and their alter ego group of companies has engaged in a Byzantine series of phony transactions designed to cheat legitimate creditors such as Philips. Having established at that prior hearing that the Sethi family and the companies it controls are alter egos of each other and judgment debtor Wings Digital, Philips filed its complaint in this action seeking to pierce the corporate veil of those alter egos. In order to prevent further fraudulent transfers among the alter ego defendants during the pendency of its claims, Philips makes the present application for an Order of Attachment.

BACKGROUND

On November 19, 2003, Justice Kenneth W. Rudolph of the New York State Supreme Court, County of Westchester, entered judgment against Wings Digital Corporation ("Wings Digital") for breach of contract in favor of Philips, for the sum of Eight hundred sixty-eight thousand two hundred thirty-four Dollars and Twenty-three Cents (\$868,234.23). That debt has gone unpaid, and, as of April 1, 2005, totals \$972,435.58, inclusive of interest.¹

In January 2004, Philips attempted to enforce its judgment against Wings Digital by seizing assets held at Commerce Bank in New Jersey. Eshman Holdings

¹ On April 1, 2005, Wings Digital filed for bankruptcy in the Southern District of New York.

Limited ("Eshman"), also a defendant in this action, intervened, claiming that it had a senior lien on all of Wings Digital's assets. Maninder Sethi's brother Jitender is one of the two shareholders of Eshman. Without disclosing the familial relationship, Eshman filed an Order to Show Cause on February 24, 2004, demanding that this Court:

(1) vacate the information subpoenas and restraining notices served by Philips on Wings Digital, and (2) permanently enjoin Philips from executing its judgment against any property of Wings Digital subject to Eshman's Security Agreement, until such time as Wings Digital's indebtedness to Eshman was satisfied. *Eshman Holdings Ltd. v. U.S. Philips Corporation, et al.*, Index No. 102785/04.

A bench trial before Justice James A. Yates was held on March 11 and 17, 2005, in this related matter ("Eshman Hearing").² After testimony from brothers Maninder and Jitender Sethi during the Eshman Hearing concerning the intra-family transactions that resulted in the purported Eshman lien, this Court found that "the entire transaction from beginning to end was fraudulent." (Exhibit C, 26:1-3.) This Court also found that "the transfer between the family members was fraudulent and in an attempt to avoid the judgment by Philips." (Exhibit C, 29:21-23.) This Court found that the Sethi family members, through their companies, engaged in these transactions, "as a way of escaping liability to potential creditors, including Philips and all just as a way of shuffling money between the family members. So I find [it to be] fraudulent." (Exhibit C, 27:23-28:3.) The Court denied Eshman the requested relief and cleared Philips to enforce its judgment against Wings Digital.

² Copies of the transcripts from the two-day Eshman Hearing are incorporated by reference, and attached to the Miller Affidavit as Exhibits B (March 11, 2005) and C (March 17, 2005).

On April 1, 2005, after being relieved of a greater than \$3 million debt, but now facing collection efforts from legitimate creditors, Wings Digital filed for bankruptcy in the Southern District of New York.

On April 12, 2005, Philips filed a summons and complaint against, *inter alia*, Maninder Sethi, Jitender Sethi, Wings Manufacturing Corporation ("Wings Manufacturing"), Jazzman Sportswear Corporation ("Jazzman") and Eshman, describing the alter ego relationship with Wings Digital and asking the Court to pierce the corporate veil and allow Philips to collect on its judgment against Wings Digital from, *inter alia*, Maninder Sethi, Jitender Sethi, Wings Manufacturing, Jazzman, and Eshman ("Complaint"). The Complaint, which is for a money judgment, is the subject of this application for an Order of Attachment, and is attached to the Affidavit of Maura Miller ("Miller Affidavit") as Exhibit A. The allegations of the Complaint are incorporated herein by reference.

ARGUMENT

**PURSUANT TO CPLR 6201(3) AND 6211, AN EX PARTE
WRIT OF ATTACHMENT SHOULD ISSUE AGAINST
MANINDER SETHI, JITENDER SETHI, WINGS MANUFACTURING,
JAZZMAN SPORTSWEAR AND ESHMAN HOLDINGS.**

In order to obtain an Order of Attachment, Philips must show, "by affidavit and such other written evidence as may be submitted, that there is a cause of action, that it is probable that the plaintiff will succeed on the merits, that one or more grounds for attachment provided in section 6201 exist, and that the amount demanded from the defendant exceeds all counterclaims known to the plaintiff." N.Y. C.P.L.R. 6212; *see also Pires v. Frota Oceanica Brasileira, S.A.*, No. 23829/76, 6 Misc.3d 1036(A), 2005 WL 579500, at **4 (N.Y.Sup. Jan. 14, 2005) (Plaintiff "has the burden of

demonstrating, through affidavit or other written evidence, that a valid cause of action for a money judgment exists, that it will probably succeed on the merits, that it has satisfied one of the statutorily-enumerated grounds of CPLR 6201, and the need for such an order.”). Pursuant to Civil Practice Law and Rule 6211, such Order may be granted without notice to defendants. N.Y. C.P.L.R. 6211.

An Order of Attachment in this case is appropriate under Civil Practice Law and Rule 6201(3), which allows for an Order of Attachment when, “the defendant, with intent to defraud his creditors or frustrate the enforcement of a judgment that might be rendered in plaintiff’s favor, has assigned, disposed of, encumbered or secreted property, or removed it from the state or is about to do any of these acts.” N.Y. C.P.L.R. 6201(3); *Mineola Ford Sales, Ltd. v. Rapp*, 661 N.Y.S.2d 281, 282 (2d Dept. 1997).

Based on the fraudulent conduct already found by this Court in *Eshman v. Philips*, it has been established that defendants Maninder and Jitender Sethi -- and their alter egos Wings Manufacturing, Jazzman and Eshman -- already have sought to fraudulently encumber and secrete assets. Moreover, as demonstrated in section B below, defendants have shown every indication that they will continue their attempts to frustrate the enforcement of Philips’ judgment. Consequently, an *ex parte* Order of Attachment is proper in this case. *West v. Kastner*, 5/11/2001 NYLJ 20 (col. 4) (1st Dept. May 11, 2001) (“The obvious purpose of [CPLR 6201(3)] is to ensure that assets will be available to satisfy a prospective money judgment where the defendant is a person who in the past has concealed assets in order to avoid paying his or her creditors.”); *Mineola Ford*, 661 N.Y.S.2d at 282 (granting order of attachment under CPLR 6201(3) based on past acts of fraud by defendant).

A. The Eshman Hearing Established That Philips Has a Valid Cause of Action Which Will Succeed on the Merits By Collateral Estoppel.

Philips' complaint in this action alleges that defendants, all members of the Sethi family or corporations within the Sethi family "cluster," are actually alter egos of each other and of Wings Digital, and therefore are jointly and severally liable for Wings Digital's debt to Philips. Philips will succeed on the merits of its claim, as the evidence and findings from the Eshman Hearing establish that the Sethis ignore corporate formalities and use their companies to shuffle and commingle assets in an attempt to evade creditors. Defendants are estopped from challenging these findings here. (*See Barcov Holding Corporation v. Bexin Realty Corporation*, 2005 WL 674852 (N.Y.A.D. 1st Dept., March 24, 2005) at *1 ("Since the identical issues . . . were involved in the prior proceedings, . . . and since [defendant] had a full and fair opportunity to litigate the issues . . . [defendant] is barred by collateral estoppel from relitigating those issues herein."), *citing Ryan v. New York Tel. Co.*, 62 N.Y.2d 494, 500 (1984).) This Court found during the Eshman hearing that the Sethi family members, through their companies, engaged in a series of intra-family transfers, "as a way of escaping liability to potential creditors, including Philips and all just as a way of shuffling money between the family members." (Exhibit C, 27:23-28:3.)

Maninder Sethi and Wings Digital are alter egos: Maninder Sethi is the sole shareholder of judgment debtor Wings Digital (Exhibit B, 25:20-23). After hearing testimony during the Eshman Hearing about the intra-familial cluster of corporations and the family's history of shuffling and commingling assets, this Court stated that, "Wings Digital is Maninder." (Exhibit C, 25:5.) When Maninder Sethi argued that it was possible for him to start a wholly-owned juridical entity and not be considered its alter

ego, the court stated, "People also set up corporations to pull scams, which is what I think happened here." (Exhibit C, 25:5-7.)³

Wings Manufacturing is the alter ego of Wings Digital: As noted above, Maninder Sethi is the sole shareholder of both Wings Manufacturing and Wings Digital. Maninder Sethi uses a Wings Manufacturing account to pay Wings Digital's debts. (Exhibit B, 88:3-91:10; Miller Affidavit Exhibit F.) In order to purchase the equipment necessary to start Wings Digital, Wings Manufacturing extended a letter of credit for more than \$1.9 million. (Exhibit B, 23:4-8; Miller Affidavit Exhibit G.) According to Maninder Sethi, Wings Manufacturing opened this more than \$1.9 million letter of credit as repayment of a \$1.65 million debt that Wings Manufacturing and Jazzman jointly owed to his mother, Loveleen Sethi, and her company, Loveleen Enterprises, also named as defendants in this action. (Exhibit B, 20:1-13; Miller Affidavit Exhibit E.)

Upon learning of the asset transfers among Leena Enterprises, Wings Manufacturing, Jazzman and Wings Digital, this Court described the Sethis' conduct as "an incredible scam." (Exhibit C, 24:8.)

Wings Manufacturing and Jazzman are alter egos of Maninder and Jitender Sethi and of each other: Maninder Sethi is the sole shareholder of defendant Wings Manufacturing (Exhibit B, 10:3-6), and, along with his brother Jitender Sethi, joint owner of defendant Jazzman (Exhibit B, 65:15-23). Defendants Wings Manufacturing and Jazzman have joint financial statements and, upon information and belief, joint

³ During a deposition in the underlying matter, *U.S. Philips Corp. v. Wings Digital Corp.*, Maninder Sethi testified, "I formed many corporations and shut it down. We form companies, we shut it down, we form companies, we shut it down. So it's very confusing." (April 28, 2003 deposition, relevant portions attached to Miller Affidavit as Exhibit D.)

accounts in which they commingle funds. (Exhibit B, 14:13-16:8; Exhibit B, 87:8-12; Miller Affidavit Exhibit E.) Wings Manufacturing and Jazzman also share offices and employees. (*Philips v. Wings*, April 29 deposition of Maninder Sethi, at 51:13-22, relevant portions attached to Miller Affidavit as Exhibit D.)

Jitender Sethi is the alter ego of Eshman: After hearing testimony at the Eshman hearing, the Court declared that, "Jitender is Eshman. . . . Jitender's Eshman. At this point in time, I mean, he controls it. He runs it. He's the Board of Directors and he's the, you know . . . He *is* Eshman." (Exhibit C, 17:6-14 (emphasis added).) Furthermore, Eshman's decision to engage in the loan transactions with Leena Enterprises and Wings Digital, which was unrelated to Eshman's business, was made by Jitender and, according to Jitender, the decision was made, "on the request of my mother." (Day 1, 118:23-119:6.)

B. Ex Parte Relief Under CPLR 6201(3) is Appropriate because the Sethi Family Has a History of Hiding Assets to Frustrate Creditors.

Evidence from the Eshman Hearing also established a tendency of defendants Maninder Sethi and Jitender Sethi, both personally and through their alter ego companies, to fraudulently conceal assets in an attempt to avoid collection of legitimate debts. *See* Exhibit C, 26:1-3 (referring to intra-family transactions that resulted in the purported Eshman lien, "the entire transaction from beginning to end was fraudulent"); Exhibit C, 29:21-23 ("the transfer between the family members was fraudulent and in an attempt to avoid the judgment by Philips"); Exhibit C, 27:23-28:3 (referring to the motivation to engage in the intra-family transactions, "[It was] a way of escaping liability to potential creditors, including Philips and all just as a way of shuffling money between

the family members. So I find [it to be] fraudulent.”). As a result, Philips is forced to proceed *ex parte* in this matter, and relief under CPLR 6201(3) is appropriate.

The Sethi family’s attempts to avoid creditors go beyond those described above. For example, as of January 2004, Wings Digital had made only \$50,000 in payments since the August 1995 inception of the loan at issue. (Exhibit B, 80:14-17; Miller Affidavit Exhibit H.) However, within 30 days of learning that Philips was attempting to enforce its judgment, Wings Digital transferred nearly \$120,000 to Eshman. (Exhibit B, 82:1-19; Exhibit H.) These checks effectuating the transfers were signed by Maninder Sethi and came from the bank account Philips had attempted to garnish. (Exhibit H.)

In October and December 2004, in a further attempt to avoid paying Philips’ valid judgment by fraudulently transferring money to his brother’s company, Maninder Sethi signed nearly \$200,000 in checks from Wings Digital to Eshman. (Exhibit B, 63:17-21; Miller Affidavit Exhibit I.) The October and December 2004 transfers to Eshman totaling almost \$200,000 were made in violation of the restraining notice served by Philips on Wings Digital.⁴ (Attached to Miller Affidavit as Exhibit J.) Although Philips had stipulated to lift the Restraining Notice for critical operating costs (Miller Affidavit Exhibit K), transfers to Eshman *do not* qualify as critical operating costs and were not accounted for in the monthly accounting of expenses required by the Stipulation to be submitted to Philips.


⁴ In the Complaint attached as Exhibit A, Philips has requested that the monies fraudulently conveyed to Eshman by Wings Digital be held in trust for Philips.

Finally, Philips recently has learned that, in February 2004, just weeks after Philips began to enforce its judgment against Wings Digital, Maninder Sethi sold a property purchased in 1986 for \$1 million to a company called 729 Madison LLC for \$10. This company is owned by Maninder Sethi's wife, Nisha Sethi, and the registered agent for the sale is A. Mitchell Greene, counsel for Wings Digital in this action. (Miller Affidavit Exhibits L, M.)

CONCLUSION

Based on Philips' probability of success on the merits of its alter ego claim, and the tendency of defendants to assign, dispose of, encumber or secrete property to avoid creditors, United States Philips Corporation respectfully requests that the Court enter its *ex parte* Order of Attachment pursuant to CPLR 6201(3).

Dated: New York, New York
April 13, 2005


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Attorneys for Plaintiff
United States Philips Corporation

**SUPREME COURT OF THE STATE OF NEW YORK
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**UNITED STATES PHILIPS
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Defendants.
-----X

INDEX NO. 601288/05

**AFFIDAVIT OF MAURA MILLER IN
SUPPORT OF *EX PARTE*
APPLICATION FOR ORDER OF
ATTACHMENT**

CONFORMED VERSION

I, MAURA MILLER, declare as follows:

**1. I am associated with the law firm of Sullivan & Cromwell LLP, counsel to
Plaintiff United States Philips Corporation ("Philips") in the above-captioned action, and
am a member of the Bar of the State of New York. I have personal knowledge of the
facts set forth in this affidavit.**

**1(a). Plaintiffs having filed an application for the Order of Attachment against
the property of defendants Maninder Sethi, Jitender Sethi, Wings Manufacturing
Corporation, Jazzman Sportswear Corporation, and Eshman Holdings Limited in an
action in the Supreme Court of New York, County of New York, pursuant to Article 62
of the New York Civil Practice Law and Rules.**

2. On November 19, 2003, Justice Kenneth W. Rudolph of the New York State Supreme Court, County of Westchester, entered judgment against Wings Digital Corporation ("Wings Digital") for breach of contract in favor of Philips, for the sum of Eight hundred sixty-eight thousand two hundred thirty-four Dollars and Twenty-three Cents (\$868,234.23). That debt has gone unpaid, and, as of April 1, 2005, totals \$972,435.58, inclusive of interest. On April 1, 2005, Wings Digital filed for bankruptcy in the Southern District of New York.

3. On April 12, 2005, Philips filed a summons and complaint against, *inter alia*, Maninder Sethi, Wings Manufacturing Corporation ("Wings Manufacturing"), Jazzman Sportswear Corporation ("Jazzman"), Jitender Sethi and Eshman Holdings Limited ("Eshman") describing the alter-ego relationship with Wings Digital and asking the Court to pierce the corporate veil and allow Philips to collect on its judgment against Wings Digital from Maninder Sethi, Wings Manufacturing, Jazzman, Jitender Sethi and Eshman ("Complaint"). The Complaint, which is for a money judgment, is the subject of this application for an Order of Attachment, and is attached hereto as Exhibit A. The allegations of the Complaint are incorporated herein by reference.

4. Based on evidence presented at a hearing in a related matter, *Eshman Holdings Ltd. v. U.S. Philips Corporation, et al.*, Index No. 102785/04, ("Eshman Hearing"), adjudicated by Justice Yates in this Court, it is probable that Philips will succeed on the merits. Copies of the transcripts from the two-day Eshman Hearing are incorporated by reference, and attached hereto as Exhibits B (March 11, 2005) and C (March 17, 2005).

5. Evidence from the Eshman Hearing also established a tendency of defendant Maninder Sethi, both personally and through his alter ego companies Wings Manufacturing and Jazzman, to fraudulently conceal assets in an attempt to avoid collection of legitimate debts.

6. Consequently, Philips is proceeding *ex parte* in order to prevent defendants from further concealing assets before the Order of Attachment has been granted.

6(a). Pursuant to CPLR 6001, Philips asserts that no other provisional remedy has been secured or sought in this action against these defendants.

7. There are no known counterclaims against Philips and, as a result, the amount sought from defendants exceeds all counterclaims.

8. Philips moves on grounds

9. No prior application for this relief has previously been made.

Philips' Probability Of Success On The Merits Of Its Alter Ego Claims

10. Philips probably will succeed on the merits of its claim against Maninder Sethi, Wings Manufacturing, Jazzman Sportswear, Jitender Sethi and Eshman. As explained more fully below, evidence from the Eshman Hearing established that the Sethi family members, through their companies, engaged in a series of intra-family transfers, "as a way of escaping liability to potential creditors, including Philips and all just as a way of shuffling money between the family members. So I find [it to be] fraudulent." (Exhibit C, 27:23-28:3.)

11. Maninder Sethi is the sole shareholder of judgment debtor Wings Digital (Exhibit B, 25:20-23), the sole shareholder of defendant Wings Manufacturing (Exhibit

B, 10:3-6), and, along with his brother Jitender Sethi, joint owner of defendant Jazzman (Exhibit B, 65:15-23).

12. After hearing testimony during the Eshman Hearing about the intra-familial cluster of corporations and the family's history of shuffling and commingling assets, this Court stated that, "Wings Digital is Maninder. People also set up corporations to pull scams, which is what I think happened here." (Exhibit C, 25:5-7.)

13. During a deposition in the underlying matter, *U.S. Philips Corp. v. Wings Digital Corp.*, Maninder Sethi testified, "I formed many corporations and shut it down. We form companies, we shut it down, we form companies, we shut it down. So it's very confusing." (April 28, 2003 deposition, at 21:9-12, relevant portions attached hereto as Exhibit D.)

14. Wings Manufacturing and Jazzman have joint financial statements and, upon information and belief, joint accounts in which they commingle funds. (Exhibit B, 14:13-16:8; Exhibit B, 87:8-12; Eshman Hearing Respondent's Exhibit 1, attached hereto as Exhibit E.)

15. Wings Manufacturing and Jazzman share offices and employees. (*Philips v. Wings*, April 29 deposition of Maninder Sethi, at 51:13-22, relevant portions attached to Miller Affidavit as Exhibit D.)

16. Maninder Sethi uses a Wings Manufacturing account to pay Wings Digital's debts. (Exhibit B, 88:3-91:10; Eshman Hearing Philips Exhibits 2 and 3, attached hereto as Exhibit F.)

17. In order to purchase the equipment necessary to start Wings Digital, Wings Manufacturing extended a letter of credit extended for more than \$1.9 million.

(Exhibit B, 23:4-8; Eshman Hearing Respondent's Exhibit 2, attached hereto as Exhibit G.)

18. According to Maninder Sethi, Wings Manufacturing opened this more than \$1.9 million letter of credit as repayment of a \$1.65 million debt that Wings Manufacturing and Jazzman jointly owed to his mother, Loveleen Sethi, and her company, Loveleen Enterprises, also named as defendants in this action. (Exhibit B, 20:1-13; Eshman Hearing Respondent's Exhibit 1, attached hereto as Exhibit E.)

19. Upon learning that Maninder Sethi shuffled debts between Wings Manufacturing, Jazzman and Wings Digital, this Court referred to Sethi's actions as "an incredible scam." (Exhibit C, 24:8.)

Maninder Sethi's History Of Hiding Assets From Creditors.

20. In January 2004, Philips attempted to enforce its judgment against Wings Digital by seizing assets held at Commerce Bank in New Jersey. Eshman Holdings Limited ("Eshman"), also a defendant in this action, intervened, claiming that it had a senior lien on all of Wings Digital's assets.

21. One of the two shareholders of Eshman (Exhibit B, 110:12-14), is Maninder Sethi's brother Jitender (Exhibit B, 110:22-111:1).

22. As this Court has found: "Jitender *is* Eshman. . . . Jitender's Eshman. At this point in time, I mean, he controls it. He runs it. He's the Board of Directors and he's the, you know . . . He *is* Eshman." (Exhibit C, 17:6-14 (emphasis added).)

23. Without disclosing the familial relationship, Eshman filed an Order to Show Cause on February 24, 2004, demanding that this Court: (1) vacate the information subpoenas and restraining notices served by Philips on Wings Digital, and (2)

permanently enjoin Philips from executing its judgment against any property of Wings Digital subject to Eshman's Security Agreement, until such time as Wings Digital's indebtedness to Eshman was satisfied.

24. After testimony from Maninder and Jitender Sethi during the Eshman Hearing concerning the intra-family transactions that resulted in the purported Eshman lien, this Court found that "the entire transaction from beginning to end was fraudulent." (Exhibit C, 26:1-3.)

25. This Court also found that "the transfer between the family members was fraudulent and in an attempt to avoid the judgment by Philips." (Exhibit C, 29:21-23.)

26. This Court found that the Sethi family members, through their companies, engaged in these transactions, "as a way of escaping liability to potential creditors, including Philips and all just as a way of shuffling money between the family members. So I find its fraudulent." (Exhibit C, 27:23-28:3.)

27. Although Wings Digital had made only \$50,000 in payments since the August 1995 inception of the loan at issue (Exhibit B, 80:14-17; Eshman Hearing Philips Exhibit 1, attached hereto as Exhibit H), upon learning that Philips was attempting to enforce its judgment, Wings Digital promptly transferred nearly \$120,000 to Eshman (Exhibit B, 82:1-19; Exhibit H). These checks effectuating the transfers were signed by Maninder Sethi. (Exhibit H.)

28. In October and December 2004, in a further attempt to avoid paying Philips' valid judgment by fraudulently transferring money to his brother's company, Maninder Sethi signed nearly \$200,000 in checks from Wings Digital to Eshman. (Exhibit B, 63:17-21; Wings Digital's Chart given to Philips by Wings Digital's counsel

at Eshman Hearing allegedly accounting for payments made to Eshman, attached hereto as Exhibit I (Exhibit B, 85, 4-10).)

29. The October and December 2004 transfers to Eshman totaling almost \$200,000 were made in violation of the restraining notice served by Philips on Wings Digital. (Attached hereto as Exhibit J.) Although Philips had stipulated to lift the Restraining Notice for critical operating costs (attached hereto as Exhibit K), transfers to Eshman *do not* qualify as critical operating costs and were not accounted for in the monthly accounting of expenses required by the Stipulation to be submitted to Philips.

30. In the Complaint attached as Exhibit A, Philips has sought the return of the monies fraudulently conveyed to Eshman by Wings Digital.

31. Finally, Philips recently has learned that, just weeks after Philips began to enforce its judgment against Wings Digital, Maninder Sethi sold a property purchased in 1986 for \$1 million to a company owned by his wife, Nisha Sethi, and whose registered agent is A. Mitchell Greene, counsel for Wings Digital, for \$10. (NJ Secretary of State report, attached hereto as Exhibit L; Choicepoint property search results, relevant portions attached hereto as Exhibit M.)

Assets Subject to Attachment

32. Philips is aware of the following assets of Maninder Sethi that are subject to this Court's jurisdiction:

- a. The real property located at 9525 114th Street; Jamaica, NY 11419
- b. The real property located at 10414 106th Street; Jamaica, NY 11417
- c. The real property located at 10417 107th Street; Jamaica, NY 11417

- d. The real property located at 11417 107th Avenue; Jamaica, NY 11419
- e. The real property located at 11026 63rd Avenue; Flushing, NY 11375
- f. The real property located at 11030 63rd Avenue; Flushing, NY 11375
- g. The real property located at 11038 63rd Avenue; Flushing, NY 11375
- h. The real property located at 11014 63rd Avenue; Flushing, NY 11375
- i. The real property located at 11016 63rd Avenue; Flushing, NY 11375
- j. The real property located at 11018 63rd Avenue; Flushing, NY 11375
- k. The real property located at 11020 63rd Avenue; Flushing, NY 11375
- l. The real property located at 11022 63rd Avenue; Flushing, NY 11375
- m. The real property located at 11024 63rd Avenue; Flushing, NY 11375
- n. The real property located at 11026 63rd Avenue; Flushing, NY 11375
- o. The real property located at 11030 63rd Avenue; Flushing, NY 11375
- p. The real property located at 11032 63rd Avenue; Flushing, NY 11375
- q. The real property located at 11034 63rd Avenue; Flushing, NY 11375
- r. The real property located at 11036 63rd Avenue; Flushing, NY 11375
- s. The real property located at 11038 63rd Avenue; Flushing, NY 11375

- t. The real property located at 11040 63rd Avenue; Flushing, NY 11375
- u. The real property located at 11042 63rd Avenue; Flushing, NY 11375
- v. The real property located at 11044 63rd Avenue; Flushing, NY 11375
- w. 50% Owner, Jazzman Sportswear Corporation
- x. 100% Owner, Wings Manufacturing Corporation
- y. 100% Owner, Wings Digital Corporation
- z. Account, Israel Discount Bank – Preferred Customer

33. Philips is aware of the following assets of Wings Manufacturing that are subject to this Court's jurisdiction:

- a. Account, Israel Discount Bank – Preferred Customer
- b. At one time, Wings Manufacturing had a bank account at National Westminster Bank (Exhibit F)

34. Philips is aware of the following assets of Jazzman that are subject to this Court's jurisdiction:

- a. Account, Israel Discount Bank – Preferred Customer

35. Philips is aware of the following assets of Jitender Sethi that are subject to this Court's jurisdiction:

- a. Account, Israel Discount Bank – Preferred Customer

36. Philips is aware of the following assets of Eshman that are subject to this Court's jurisdiction:

- a. Account, Israel Discount Bank – Preferred Customer

WHEREFORE, pursuant to CPLR Section 6201(3), the undersigned respectfully
requests that this Court enter the attached Order of Attachment.

Dated: April 13, 2005
New York, New York


Maura Miller

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
UNITED STATES PHILIPS
CORPORATION,

Plaintiff,

v.

MANINDER SETHI; JITENDER
SETHI; LOVELEEN SETHI; WINGS
MANUFACTURING CORPORATION;
JAZZMAN SPORTSWEAR
CORPORATION; ESHMAN
HOLDINGS LIMITED; LEENA
DENIM LIMITED f/k/a LEENA
ENTERPRISES; and John Does 1 – 10,

Defendants.
-----X

INDEX NO. 601288/05

ADDENDUM TO AFFIDAVIT OF
MAURA MILLER IN SUPPORT OF
EX PARTE APPLICATION FOR
ORDER OF ATTACHMENT -

I, MAURA MILLER, affirm and declare that attached to the April 13, 2005

affidavit in the above-referenced action are true and correct copies of:

- a. Complaint filed in *United States Philips Corporation v. Maninder Sethi et al.*, Index No. 601288/05;
- b. Transcript of March 11, 2005 in *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- c. Transcript of March 17, 2005 in *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- d. Relevant portions of April 28, 2003 deposition of Maninder Sethi;
- e. Combined Financial Statements of Wings Manufacturing Corporation and Jazzman Sportswear Corporation as of December 31, 1995 and 1994;
- f. Philips Exhibits 2 and 3 from *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;

- g. Respondent's Exhibit 2 from *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- h. Philips Exhibit 1 from *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- i. Wings Digital's Chart given to Philips by Wings Digital's counsel during *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- j. Restraining Notice with Information Subpoena of February 11, 2004 served by Philips in Wings Digital in *United States Philips Corporation v. Wings Digital Corporation*, County of Westchester Index No. 433/02;
- k. Stipulation between Philips and Wings Digital in *Eshman Holdings Limited v. United States Philips Corporation et al.* Index No. 102785/04;
- l. New Jersey Secretary of State report;
- m. Relevant portions of Choicepoint property search results.

Dated: April 15, 2005
New York, New York


Maura Miller